



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Naomi L. Bolton
Land Use Coordinator

Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**PLANNING BOARD
MINUTES
AUGUST 27, 2009
(Approved as amended 9/24/09)**

PRESENT: Craig Francisco, Chairman; Frank Bolton, Vice Chairman; Tom Clow, Exofficio; George Malette, Secretary; Neal Kurk; Naomi L. Bolton, Land Use Coordinator

GUESTS: Jeff Enman, PSNH; William D. Burleigh; Art Siciliano, Mark Lanier; Chris Chapman; Darrin Lofaro; Genevieve Lofaro; Linda Chatfield; Joan Hatch; Doug Hatch

I. CALL TO ORDER:

Chairman Craig Francisco called the meeting to order at 7:05 PM at the Weare Town Office Building.

II. PUBLIC HEARING:

PSNH – SCENIC ROAD – TREE REMOVAL NECESSARY TO REPLACE EXISTING POLE, WEST QUAKER STREET & TIFFANY HILL ROAD INTERSECTION: Chairman Francisco opened this public hearing at 7:06 PM. Jeff Enman from PSNH was present and stated that they have a pole, located in an off road right of way, near the junction of West Quaker Street and Tiffany Hill Road that needs to be replaced. Based on poor reliability issues and poor access to this off road location, PSNH would like to relocate two (2) poles out to Tiffany Hill Road which would result in better overall performance of this entire circuit. Realizing that West Quaker Street and Tiffany Hill Road have both been designated as a “scenic road” within the Town which per RSA 231:158 requires this public hearing to take place prior to removing any trees to accomplish this task.

Neal Kurk asked what the diameters of the trees are that are to be removed. Mr. Enman responded that he would say the average is 8-12 inches. Mr. Kurk then asked if the trees are cut will the character of the road be changed. Mr. Enman didn’t think it would. Mr. Kurk then asked if this was scheduled to be done right away or could it be continued for another month to allow all members to go look at it as well as notify some of the residents of the road that this is planned. Mr. Enman said that they didn’t have a problem waiting for a month.

Chairman Francisco stated that he went by the location before the meeting and all the trees are marked and he didn't see that it is going to affect the roadway. Mr. Enman stated that they have placed stakes with flags at the propose pole locations.

Mr. Kurk stated that he would like to see this tabled until next month so that others who might learn of this one way or the other would have a chance to chime in and he will be able to go look at the site as well.

Tom Clow apologized for not getting to the site and would like to if the project is not in that big of a rush. The board didn't feel a formal site walk is not needed because the trees to be removed are flagged and there are stakes to where they propose to put the poles.

Neal Kurk moved to continue this hearing to September 24, 2009; Tom Clow seconded the motion, all in favor. Chairman Francisco closed this hearing at 7:18 PM.

MARK & JOYCE LANIER – SUBDIVISION (CONTINUED HEARING), CONCORD STAGE ROAD (RT. 77), #403-159: Chairman Francisco opened this hearing at 7:19 PM. Art Siciliano, Scott Lanier and Mark Lanier were present along with abutters, Doug Hatch, Joan Hatch, Linda Chatfield, Chris Chapman, Darrin Lofaro and Genevieve Lofaro. Mr. Siciliano stated that since the last months meeting he has been to different boards, the zoning board meeting and conservation commission meeting. At the Zoning Board meeting held on August 4, 2009 the essence of their comments were that they would like to see some factual engineer's information or plan to indicate that there will not be any impact to the abutter's property. He has changed the plan again and it has to do with the concern of the shared driveway. At the last meeting the comment was made that the driveway had to be shared on both property frontages. In order to do that the plan had to been altered and the back lot line was moved to be compliant to zoning. They are working on an engineered plan. The Zoning Board was meeting was continued to September 1st. On August 12, 2009 he went to the Conservation Commission and they discussed it further. At that meeting Steve Najjar stated that the intent of the wetlands buffer ordinance in part is to prevent driveway wetlands crossings since they are prone to lack of upkeep resulting in major washouts when they clog. The ordinance was to encourage wetlands crossings for new development to be made on class 5 town roads where they receive proper maintenance. Mr. Siciliano stated that Article 28.9 as it is written in the zoning ordinance does not say anything about the prevention of wetlands crossing. Mr. Siciliano stated that his interpretation of why the article was written was to minimize not prevent crossings. He felt that by not allowing wetlands crossings is a taking of people's dry land, which he didn't see was the intent. He thinks that the Hatch property is higher than the wetlands flow. He is working on engineering the culverts so no water from the Lanier's property will impact the abutting properties.

Frank Bolton asked about the non-wetland versus wetland ratio of lot 159. Mr. Siciliano stated that he has calculated all that for each lot in a table on the plan. Mr. Bolton then asked if there is going to be any problems meeting setbacks and Mr. Siciliano responded no, but there is an existing house on the lot now.

Neal Kurk pointed out that he was looking at the zoning requirements noted on the plans and the two frontages for Lots 159.2 and 159.1 need to be switched, because of the back lot it only needs 50' of frontage with 10+ acres. The frontage numbers on the charts have to be switched.

The application for this subdivision was accepted as complete at the July 30th meeting, therefore the 65 day clock begins from that point, which means the board has until October 4, 2009.

Chairman Francisco stated that he received the following email from the Chairman of the Conservation Commission that he would like to read out loud so that it can be put into the minutes:

"The CC is concerned that the PB and ZBA not misunderstand our lack of comment regarding the above referenced subdivision. Our lack of comment last month should not have been construed as an endorsement or a sign of there being no problem anticipated. The CC discussed this last month and additionally this month. We don't support this application:

1. The amount of wetlands on the newly proposed lots is excessive and reaching the buildable areas requires extensive filling of wetlands.
2. The buffer ordinance prohibits driveway crossings in the buffer; this ordinance was to discourage crossings.
3. We are now aware that this property was purchased following the institution of the buffer ordinance.
4. We wish these comments to be part of the records of both boards for this application.

Please acknowledge receipt of this communication. We have made a motion and voted on these comments. In favor Steve Najjar, Andy Fulton, Pat Myer. Abstaining George Malette. Motion to send comments by Steve Najjar and seconded by Pat Myers."

Mr. Siciliano stated that he would like to address the above comments. Number 1 – in their opinion the requested crossing is not excessive it is under 3,000 SF which is under the minimal impact per the State regulations. Number 2 – it is not written in the ordinance that wetlands crossings are prohibited. Number 3 – it shouldn't matter the date the applicant became the owner that shouldn't even be relevant. The bottom line is that to prohibit wetlands crossings is too much of a taking.

George Malette stated that the issue of the buffer is before the zoning board as to whether they can cross the buffer or not.

Tom Clow stated that the applicant needs the variance before this board can proceed and vote on this. Mr. Siciliano stated that he is going to ask for a joint hearing between all boards because he feels this is appropriate.

Mr. Bolton stated there is an opinion by Mr. Siciliano and an opinion by Mr. Najjar and the Zoning Board will have to rule before this board proceeds. Mr. Bolton added that there must be some validity to Mr. Najjar's opinion because you are before the zoning board. Mr. Siciliano disagreed because of how it is written in the zoning ordinance, you have to go for some type of permission, which he is doing at the zoning board level.

Mr. Siciliano is requesting a site walk for all to go and take a look at what is there as well as to see what the neighbors are talking about. Chairman Francisco stated that he did take a site walk the other afternoon and it is not what he thought it was going to be after hearing from all parties. He would like to also request a joint meeting with all the boards after the site walk. The board questioned why the need for a joint meeting, which at the end of the discussion decided to not having one.

Chairman Francisco then asked for any abutters to speak.

Doug Hatch asked if he could compare the plan that he has to the new plan that Mr. Siciliano is showing tonight. Mr. Hatch asked Mr. Siciliano the differences which were pointed out to Mr. Hatch.

Mr. Hatch stated that he has a letter that he would like to have put into the record. He handed Chairman Francisco the letter to be read into the record. Mr. Hatch stated again the he is just looking for some assurance that the flooding won't be any worse. Chairman Francisco read the letter from Mr. Hatch as follows:

"August 27, 2009

We are opposed to the Mark and Joyce Lanier subdivision which includes plans to build two houses and construct a shared driveway for the following reasons:

1. The natural flow of the wetlands on their property flows toward the properties on Reynwood Lane and travels down to the government run off.
2. We are very concerned about any changes being made to the wetlands that could possibly cause or direct more water onto our property.
3. When we replaced our leach field and added an additional septic tank in 2004 it was found that the filling in of wetlands within 75' of the proposed system that was required, was never done. Because it was never done we were required to obtain 2 waivers from the State in 2004. The first being that our leach field is now only 32' instead of the required 75' from surface water. The second being the distance above seasonal high water table is actually 3' instead of the required 4'. (See copies of Waivers attached) (Both the 1979 and 2004 septic plans for our property are on file with the Town)

4. We also have seasonal surface water 30' from the foundation on one side of the house. (See attached pictures)
5. Plowing a driveway of this length will create high banks of snow that will create an additional load of water on either side in the spring.
6. Any additional water on our property will take away from the little usable land we have, has the potential of flooding out our septic system, doing damage to our foundation, will reduce the value of our property, and who knows what else.

We have owned our property for 30 years and have seen the water problems throughout the area. Even where he is proposing to construct the driveway access has been under water some springs when you look down there from Rte. 77.

We are requesting that this be made a part of the record of the Planning Board for this application.

Respectfully,

Douglas and Joan Hatch
17 Reynwood Lane
Weare, NH 03281
529-7762"

Neal Kurk's asked if the applicant were required to put in a series of box culverts so the wet wasn't channeled would that address his concern. Mr. Hatch stated the issue is not what is put in there he would just like to have no more additional flooding.

Mr. Hatch pointed out that he has lots of water to the right side of his house if you are standing on Reynwood Lane looking at his house. Both Mr. Siciliano and Chairman Francisco indicated that water must be coming from another source. Again, this is why a site walk would be very important.

Genevieve Lofaro, abutter stated that if you go behind the wall there are two runoffs that come around on both sides. Mr. Lofaro stated that he is concerned about the direction of the water being changed. It is ok now but he is concerned there are two points now that come onto the property and wouldn't like to see it change to make more.

Chairman Francisco closed the public portion of this hearing for tonight. George Malette thanked everyone for coming and added that when we get engineered plans it is important to obtain that information as well. Chairman Francisco stated that this will be your only notice for the next meeting and if the abutters waited a couple of minutes they will have the date of the site walk as well. The abutters would like for the board to also come down Reynwood Lane after they walk the Lanier's to see what they have been talking about.

The Board scheduled the site walk for Thursday night, September 10th at 5:30 PM and everyone going is to meet at 1056 Concord Stage Road.

George Malette moved to continue this hearing to September 24, 2009; Tom Clow seconded the motion, all in favor. Chairman Francisco closed this hearing at 8:10 PM.

BURT & JANET & ROBERT & VICTORIA BROWN – LLA (CONTINUED HEARING), ORCHARD PATH ROAD, #408-118 & #408-118.1: Chairman Francisco opened this hearing at 8:11 PM. Naomi informed the board that she received an email from Mike Dahlberg indicating that Mr. Brown has come to an agreement with the abutter, Matt Cammack, to purchase a portion of his property for frontage onto Orchard Path Road. In doing this there is one additional abutter that needs to be notified, therefore the hearing cannot be held this evening until the abutter is properly notified, so they would like to be continued to the September meeting. Tom Clow moved to continue this hearing to September 24, 2009; George Malette seconded the motion, all in favor. Chairman Francisco closed this hearing at 8:16 PM.

III. OTHER BUSINESS:

JULY 9, 2009 MINUTES: Tom Clow moved to approve the July 9, 2009 minutes as written; George Malette seconded the motion, all in favor.

JULY 30, 2009 MINUTES: Neal Kurk moved to approve the July 30, 2009 minutes as written; Tom Clow seconded the motion. Vote: 3 in favor (Kurk, Clow and Francisco) and 2 abstained (Malette and Bolton).

AUGUST 13, 2009 MINUTES: George Malette moved to approve the August 13, 2009 minutes as written; Neal Kurk seconded the motion. Vote: 4 in favor (Kurk; Clow; Malette and Francisco) and 1 abstained (Bolton)

MUNICIPAL LAW LECTURE: Naomi reminded the members that information was in their packages regarding the three (3) upcoming law lectures to be held in October at the Derry Municipal Building.

ANNUAN PLANNING AND ZONING CONFERENCE: Naomi reminded the members that information was given to them if they were interested in attending the Annual Planning and Zoning Conference in Lincoln, NH on Saturday, October 17, 2009.

IV. ADJOURNMENT:

As there was no further business to come before the board, Tom Clow moved to adjourn at 8:30 PM; Neal Kurk seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator